

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2249 OF 2004

The Municipal Corporation ..Petitioner.
of the City of Pune

Versus

Mr. Babarao Rajaram Jogdand & Anr. ..Respondents.

Mr.R.M.Pathe for R.G.Ketkar for the Petitioner.

CORAM : S. A. BOBDE, J.

DATED : 30TH AUGUST, 2005.

P.C.:

1. By this petition, the Municipal Corporation questioned the order of the learned Judge of the Small Causes Court passed in Municipal Appeal No.62/1998. By the impugned order, the learned Judge has set aside annual rateable value of the property belonging to the respondent in building No.'E' at the rate of Rs.1.25 per sq.ft. per month, as proposed by the Corporation.

2. The property in question is a flat in building

No.'E', which was constructed in the year 1997-1998. This building is admittedly adjacent to the building Nos. 'B','C' and 'D'. The building 'E' appears to be the smaller in all respect. The building in which the suit flat is located was constructed in the year 1997-1998. Whereas, the other buildings were constructed about three years ago i.e. in the year 1994-1995. The area of the flat in question is 41.8 sq.mtrs.

3. The learned Judge of the Small Causes Court has come to the conclusion that having regard to the rateable value of flats in buildings Nos. B,C and D, which are in the range of Rs.0.80 ps per sq.ft. per month, it will be appropriate to fix the rateable value of the flat in question on par with the rateable value of the flats in adjacent buildings Nos.B,C, and D. The learned Judge has relied upon the case of Municipal Corporation vs. Haridas Govinddas Gujrati, reported in 2000 (3) Mh.L.J.pg. 215.

4. Having regard to the circumstances of the case, I see no error of law apparent on the face of the order. The flat in the building in question, seems to be a part of the same complex for which the

rateable is fixed at about 0.80 ps.per sq.ft. per month, which is also a standard rent.

5. I see no merit in any of the contention raised on behalf of the Corporation that the Corporation is entitled to revised its rate since the cost for running the corporation has increased. Undoubtedly, the corporation is entitled to revise the rate but they must do so consistent with the A.R.V. of the building surrounded by the properties in question. Here the gap between the construction of the two kinds of property is only three years.

6. In the circumstances, there is no merit in the petition, which is hereby dismissed.

DT.30.08.05

(S.A.BOBDE, J)

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